

David J. Bradley, Clerk

Defendants.

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CIVIL ACTION NO. 7:19-CV-403

TEMPORARY RESTRAINING ORDER

Plaintiff United States of America, having filed its Complaint, seeking, *inter alia*, a temporary restraining order, preliminary injunction and other equitable relief in this matter, and having moved for an Emergency Temporary Restraining Order and other relief under Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court, having considered the Complaint, supporting affidavit, and motion filed in support and having heard arguments of counsel for the parties for and against the requested relief, finds that:

FINDINGS OF FACT

1. This Court has jurisdiction over the subject matter of this case and there is good cause to believe it will have jurisdiction over Defendants.
2. Venue lies properly with this Court.
3. There is good cause to believe that Defendants Fisher Industries, Fisher Sand and Gravel Co., and Neuhaus & Sons, LLC., have engaged in, and are likely to engage in, acts that violate or have violated the requirements of the USIBWC pursuant to the 1970 Treaty between the United States and Mexico. (*Treaty to Resolve Pending Boundary Differences and Maintain*

the Rio Grande and Colorado River as the International Boundary, US –Mex, Nov. 23, 1970, TIAS 7313.).

4. There is good cause to believe that the United States has a substantial likelihood of prevailing on the merits of this action.

5. There is good cause to believe that the United States has suffered and will continue to suffer immediate and irreparable damage if the temporary restraining order is not granted.

6. There is good cause to believe that the threatened injury to the United States substantially outweighs any threatened harm to the Defendants.

7. There is good cause to believe that granting the temporary restraining order will not disserve the public interest.

THEREFORE, IT IS ORDERED that Plaintiff United States' Motion for a Temporary Restraining Order and Preliminary Injunction is hereby **GRANTED** as follows. Pending a preliminary injunction hearing, Defendants Fisher Industries, Fisher Sand and Gravel Co., and Neuhaus & Sons, LLC. (and anyone acting on their behalves who receive actual notice of this Order) are hereby immediately restrained and enjoined as follows:

- (a) constructing a bollard structure, wall or similar structure, pouring concrete or any other permanent structure within the floodplain of the Rio Grande River on land described as an 807.73 gross acre tract of land out of the WEST ADDITION TO SHARYLAND SUBDIVISION, Lots 9-1, 9-2, and Parts of Lots 9-3, 9-4 and Parts of Lots 10-1, 10-2, and 10-3 and Part of Porcion 53 and 54, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 1, Page 56, Map Records, Hidalgo County, Texas as described in the Special Warranty Deed filed as Document No. 2752394, Official Records of Hidalgo County, Texas (*See Exhibit 1 to the United States' Motion Docket No. 5*) until such time as Defendants comply with the requirements of the USIBWC pursuant to the 1970 Treaty between the United States and Mexico. (*Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary*, US – Mex, Nov. 23, 1970, TIAS 7313.);
- (b) shaving or cutting of the bank of the Rio Grande River along the portion described in paragraph (a) until such time as Defendants Fisher Industries, Fisher Sand and Gravel

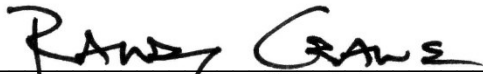
Co., and Neuhaus & Sons, LLC. comply with the requirements of the USIBWC pursuant to the 1970 Treaty between the United States and Mexico. (*Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary*, US – Mex, Nov. 23, 1970, TIAS 7313.);

- (c) Nothing in this order prohibits Defendants Fisher Industries, Fisher Sand and Gravel Co., and Neuhaus & Sons, LLC., and accordingly, such Defendants are permitted to clear and grub, trench, place rebar and conduit in the trench and seed and plant on the subject property.

IT IS FURTHER ORDERED:

The Court will hold a status hearing on Thursday, December 12, 2019 beginning at 1:30 p.m. before the Honorable Randy Crane, 9th Floor Courtroom, Bentsen Tower, McAllen, TX.

SO ORDERED this 5th day of December, 2019, at McAllen, Texas.



Randy Crane
United States District Judge